



**CITY DEVELOPMENT DEPARTMENT-PLANNING  
ZONING BOARD OF ADJUSTMENT MEETING MINUTES  
COUNCIL CHAMBERS, CITY HALL BUILDING**

**APRIL 14, 2014**

**1:30 P.M.**

Chairman Concha called the meeting to order at 1:32 p.m.

The following Board Members answered roll call:

Mr. Robert Concha, Jr., Chairman  
Mr. Robert Garland, Vice-Chairman  
Ms. Margaret Livingston  
Mr. Roy Gilyard  
Mr. Luis De La Cruz  
Mr. Rick Cordova  
Mr. Jeff Gonzalez  
Mr. Lamar Skarda  
Mr. Jim Graham

The following City Staff were present:

Ms. Linda Castle, City Development Department, Senior Planner  
Mr. Alex Hoffman, City Development Department, Lead Planner  
Mr. Tony De La Cruz, Building & Development Permitting, Senior Plans Examiner  
Ms. Sol Cortez, Assistant City Attorney, Legal

**CHANGES TO THE AGENDA**

*None.*

**PUBLIC HEARING**

**REGULAR AGENDA:**

*Prior to the meeting, Staff distributed copies of the property survey (provided by the property owner) to Board Members.*

***Item postponed at the 01-13-14 meeting to the 04-14-14 ZBA Meeting***

**ITEM 1:**

PZBA13-00024                      1901 Roswell Road                      Elena De La Rosa  
Applicant requests a Special Exception under Section 2.16.050 J (Carport over a Driveway) in an R-3 (Residential) zone. This would allow an existing 19' by 22'3" addition of which a 19' by 4'8" (90 square feet) portion encroaches into the required rear yard setback and is located to within 18' of the rear property line. Further, this would allow a 361.40 square feet carport. The required cumulative front and rear yard

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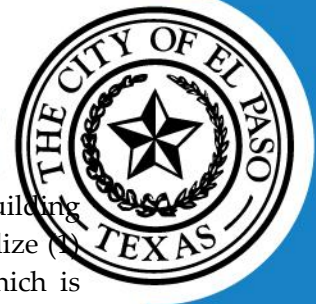
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setback total in the R-3 zone district is 50 feet. The applicant was cited for building additions to her house without permits and requested through the ZBA to legalize (1) an addition which encroaches in the rear yard setback and (2) a carport which is encroaching in the front yard setback. At the August 12, 2013, meeting the ZBA **approved the request for the Special Exception C** for the encroachment in the rear yard setback with a condition that the wall of the accessory building which is built to within 5 feet of the side property line be of fire-rated construction. The request for the Special Exception J was postponed to allow her to submit revised plans for the carport. Regarding the request for the Special Exception J for the carport, Building Development & Permitting reviewed the as-built structural drawings of the existing carport and failed the plans. The request for the carport has been postponed 5 times to allow the applicant to submit plans that meet the requirements of the Special Exception J. Subsequent to the December 9<sup>th</sup> ZBA meeting, staff met with Mrs. De La Rosa and explained her options to her: (1) to reduce the carport to the 150 square feet of open porch permitted to encroach in the required front yard setback, or (2) provide plans that meet the ZBA requirements as far as structural and architectural design, size and materials. At the January 13, 2014, meeting the Board's decision was to allow the applicant 10 weeks to submit revised plans in time for the April 14<sup>th</sup> meeting. As of the date of this report, the applicant has not provided carport plans.

**STAFF RECOMMENDS DENIAL OF THE REQUEST AS THE APPLICANT HAS NOT PROVIDED PLANS WHICH MEET THE REQUIREMENTS OF THE SPECIAL EXCEPTION J (CARPORT OVER A DRIVEWAY).**

The following City staff commented:

1. Ms. Castle gave a presentation
2. Ms. Cortez
3. Mr. Hoffman
4. Mr. De La Cruz

Chairman Concha, Vice-Chairman Garland and Board Members Mr. De La Cruz, Ms. Livingston, and Mr. Gonzalez commented.

Ms. De La Rosa, property owner, made remarks regarding her request and responded to comments and/or questions from Board Members.

**MOTION:**

*Motion made by Mr. Gonzalez, seconded by Mr. De La Cruz AND UNANIMOUSLY CARRIED TO DENY.*

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***Item postponed at the 02-10-2014 ZBA Hearing to the 04-14-2014 ZBA Meeting***

**ITEM 2:**

PZBA13-00037

7304 Ramada Drive

Lorena Chiu

Applicant requests Special Exceptions under Section 2.16.050 C (Rear Yard Setback) and Section 2.16.050 J (Carport over a Driveway) in an R-3 (Residential) zone. This would allow the approval of a site plan which includes demolition of structures encroaching in the front yard setback and would allow the existence of 589.68 square feet of patio additions which encroach in the required rear yard setback and are to be located to within 14' of the rear property line. The required cumulative front and rear yard setback total is 50 feet in the R-3 zone district. The applicant was cited for building porch additions in both the front and rear yards without permit; the additions encroach in the required front and rear yard setbacks. Regarding the rear yard setback, the applicant is requesting the Special Exception C to legalize existing patio additions which encroach into the rear yard setback and are more than the 180 square feet of open porch permitted. In order to meet the 589.68 square feet allowed by the Special Exception, the applicant will be required to cut back the patio additions. Further, in June 1993 the applicant was permitted a carport in the front yard through building permit #93-12616. However, site photos of the property show that the carport has been replaced with new carports, built without permit, including one built over the driveway, which encroach more than 150 square feet into the front yard setback. At the February 10, 2014, meeting the applicant indicated he will submit plans for a new carport; however, the plan submitted for today's (April 14<sup>th</sup>) meeting is the same as submitted in February. The plan shows demolition of all structures which encroach in the required 20' front yard setback, except for the 150 square feet of open porch allowed to encroach, per Section 20.12.040 B.2.4, Density and Dimensional Standards, Front yards, of the Zoning Code. Staff received calls from two neighbors who objected to the applicant's request to keep the existing carports.

**STAFF RECOMMENDS APPROVAL OF THE REQUEST FOR THE SPECIAL EXCEPTION C AND DENIAL OF THE REQUEST FOR THE SPECIAL EXCEPTION J TO KEEP EXISTING CARPORTS, PER SUBMITTED SITE PLAN WHICH SHOWS DEMOLITION OF ALL STRUCTURES ENCROACHING MORE THAN THE APPROVED 589.68 SQ. FT. IN THE REQUIRED REAR YARD SETBACK AND DEMOLITION OF ALL STRUCTURES ENCROACHING MORE THAN THE ALLOWED 150 SQUARE FEET IN THE FRONT YARD SETBACK, WITH RELOCATION OF POSTS EXISTING CLOSER THAN 5 FEET TO SIDE PROPERTY LINES TO BE NO CLOSER THAN 5 FEET TO THE PROPERTY LINE(S), AND WITH A CONDITION**

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**EL PASO.IT'SALLGOOD.**

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**THAT A BUILDING/DEMOLITION PERMIT IS OBTAINED WITHIN 30 DAYS OF THE DATE OF APPROVAL OF THIS REQUEST FOR ALL WORK SHOWN ON THE SITE PLAN.**

The following City staff commented:

1. Ms. Castle gave a presentation and noted Staff received phone calls from two neighbors objecting to the applicant's request to keep the existing carports.
2. Mr. Hoffman

Chairman Concha, Vice-Chairman Garland and Board Members Mr. De La Cruz, Mr. Skarda, and Mr. Gonzalez commented.

Mr. Chung Chiu, property owner, made remarks regarding the request and responded to comments and/or questions from the Board.

**1<sup>st</sup> MOTION:**

*Motion made by Mr. De La Cruz TO APPROVE THE REQUEST FOR THE SPECIAL EXCEPTION C WITH THE REMOVAL OF THE 589.68 SQUARE FEET TO REMAIN AND THE 1/3 TO BE REMOVED AS IT STATES IN THE PLAN, IN THE REAR ONLY.*

Mr. Skarda clarified the motion language "to reduce the rear patio to 589.68 square feet".

**1<sup>st</sup> MOTION AMENDED:**

*Motion made by Mr. De La Cruz, seconded by Mr. Skarda AND UNANIMOUSLY CARRIED TO APPROVE THE REQUEST TO REDUCE THE REAR PATIO TO 589.68 SQUARE FEET.*

**2<sup>nd</sup> MOTION:**

*Motion made by Mr. De La Cru TO DENY AS RECOMMENDED BY STAFF.*

Ms. Castle requested Mr. De La Cruz include in the motion language "with the condition per submitted demolition site plan, as shown".

**2<sup>nd</sup> MOTION AMENDED:**

*Motion made by Mr. De La Cru TO DENY AS RECOMMENDED BY STAFF WITH THE CONDITION PER SUBMITTED DEMOLITION SITE PLAN, AS SHOWN.*

*Motion failed for lack of a second.*

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**3<sup>rd</sup> MOTION:**

*Motion made by Mr. Gonzalez **TO ACCEPT THE STAFF RECOMMENDATIONS AS IS.***

*Motion failed for lack of a second.*

**4<sup>th</sup> MOTION:**

*Motion made by Mr. Cordova, seconded by Mr. Gonzalez **AND UNANIMOUSLY CARRIED TO RECONSIDER THE CASE.***

**1<sup>st</sup> MOTION REVISED:**

*Motion made by Mr. Gonzalez, seconded by Vice-Chairman Garland **AND UNANIMOUSLY CARRIED TO ACCEPT THE STAFF RECOMMENDATION, WITH CONDITIONS AS WRITTEN, AND STRIKE THE FIRST MOTION FROM THE RECORD.***

**ITEM 3:**

PZBA14-00007                      3301 Fort Boulevard                      Partida Properties, Inc.  
Applicant requests a Special Exception under Section 2.16.050 B (Two or More Nonconforming) in a C-2 (Commercial) zone. This would allow a new shopping center development which is proposed to be located to within 5 feet of the rear property line and 0 feet of the side street property line (along Justus Street). The required rear yard setback is 20 feet and the required side street yard setback is 10 feet in the C-2 zone district. The applicant is proposing to demolish the structure on the property and build a new 5,440 square feet building with a laundromat and office tenant spaces. The property is in an old subdivision of at least 50+ years, Grandview, and there are properties within the same block and across Fort Boulevard and Justus Street built to the property lines and existing in the 1956 aerial. The properties at 3225 Fort and the subject property at 3301 Fort Boulevard were built to the side street property line. Several properties at 3313, 3316 and 3326 Fort Boulevard are built to 5 feet or closer of the rear property line.

**STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION B.**

Ms. Castle, Staff, gave a presentation and noted Staff received two phone calls from neighboring property owners, no objections to the requests.

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Chairman Concha asked if anyone in the audience wished to speak in favor of or opposition to the request. *There was no response.*

Prior to providing testimony, Chairman Concha sworn in Mr. Refugio Partida, property owner. Mr. Partida made remarks regarding his request.

**MOTION:**

*Motion made by Ms. Livingston, seconded by Mr. Gilyard AND UNANIMOUSLY CARRIED TO APPROVE.*

**ITEM 4:**

PZBA14-00009                      516 Canyon Springs Drive                      Ruben R. Roncallo  
Applicant requests a Special Exception under Section 2.16.050 C (Rear Yard Setback) in an R-3 (Residential zone. This would allow a 44' by 15'3" addition of which a 44' by 3' portion (132 square feet) is proposed to encroach into the required rear yard setback and to be located to within 22 feet of the rear property line. The required cumulative front and rear yard setback total in the R-3 zone district is 50 feet. The applicant is requesting the special exception for a new sunroom that is proposed to encroach in the required rear yard setback. The applicant had previously enclosed a porch without ZBA approval or obtaining a building permit. The existing enclosure and porch are being removed and are being remodeled into a sunroom.

**STAFF RECOMMENDS APPROVAL OF THE REQUEST AS IT MEETS THE REQUIREMENTS OF THE SPECIAL EXCEPTION C.**

Ms. Castle, Staff, gave a presentation and noted Staff received one phone call from a neighbor in favor of the request.

Prior to providing testimony, Chairman Concha sworn in Mr. Ruben Roncallo, property owner. Mr. Rocallo gave background information regarding his request and asked the Board for their support.

**MOTION:**

*Motion made by Vice-Chairman Garland, seconded by Mr. Gilyard AND UNANIMOUSLY CARRIED TO APPROVE.*

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**Other Business – Discussion and Action:**

5. ZBA Ordinance amendment regarding postponements.

Ms. Castle stated Staff had not prepared the amended ordinance language; however, should the Board require, Staff would prepare the amended ordinance language for discussion and action at the next ZBA meeting.

**NO ACTION WAS TAKEN.**

6. Approval of Minutes:      February 10, 2014  
   March 31, 2014 (Special Meeting – Training)

**February 10, 2014**

Chairman Concha asked Board Members if they had any additions, corrections and/or revisions. *There were none.*

**MOTION:**

*Motion made by Mr. De La Cruz, seconded by Mr. Gonzalez AND UNANIMOUSLY CARRIED TO APPROVE THE FEBRUARY 10, 2014 MINUTES AS IS.*

**ABSTAIN:** *Messrs. Skarda and Graham*

**March 31, 2014 (Special Meeting – Training)**

Chairman Concha asked Board Members if they had any additions, corrections and/or revisions. *There were none.*

**MOTION:**

*Motion made by Mr. Skarda, seconded by Mr. De La Cruz AND UNANIMOUSLY CARRIED TO APPROVE THE MARCH 31, 2014 MINUTES.*

**ABSTAIN:** *Vice-Chair Garland, Ms. Livingston, Mr. Cordova, and Mr. Gonzalez*

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7. Items for future agendas

**NO ACTION WAS TAKEN.**

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**PRIOR TO ADJOURNING**

Ms. Castle noted Mr. Medina was notified of the March 31<sup>st</sup> Special Meeting – Training; however, he was unable to attend. For the meeting today, Staff did not receive a reply from Mr. Medina.

Mr. Gonzalez felt it beneficial for Mr. Medina to be present at the time the Board's legal counsel presents information he requested at the February 10, 2014 meeting, as follows:

1. The legal opinion from the City Attorney verifying if it is legal for the Regular and Alternate Board Members, representing the same City Council Representative district, may be present at the same ZBA meeting;
2. In writing, clarification and a presentation regarding:
  - a. is this Board reactive or active;
  - b. what the powers of this Board are;
  - c. whether certain items can be initiated by the Board rather than the Board simply reacting to Staff
3. On a regular basis, Staff provide a list of zoning violations inspections to include the number of inspections and the number of inspections that were passed and/or denied;
4. Does this Board have the authority to request such a list (zoning violation inspections);
5. Is Legal counsel present to serve the Board or Staff; and
6. Issues regarding industry, specifically Western Refining

Chairman Concha concurred with Mr. Gonzalez and requested Staff prepare documents for the Board to discuss and take action on.

Ms. Castle responded Staff was unclear what information Mr. Medina requested.

Ms. Livingston clarified the request to amend the ordinance language regarding postponements was from Staff. However, Mr. Medina had several issues regarding the manufacturing industry in El Paso.

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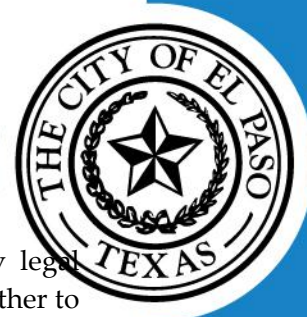
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Ms. Cortez stated Legal Staff are present at Board meetings to provide any legal assistance during the course of the meeting. Legal and Planning Staff work together to fulfill any requests/directions given by the Board.

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8. Adjournment

***MOTION:***

*Motion made by Mr. Gonzalez, seconded by Mr. De La Cruz AND UNANIMOUSLY CARRIED TO ADJOURN THE MEETING AT 2:35 P.M.*

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Linda Castle, Senior Planner

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